



***Division of Public Defender Services  
State of Connecticut***

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**COMMITTEE ON PUBLIC SAFETY AND SECURITY  
MARCH 11, 2014**

**TESTIMONY OF CHRISTINE RAPILLO  
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DIVISION OF PUBLIC DEFENDER SERVICES**

**Raised Bill 429, AN ACT CONCERNING PUBLIC SAFETY**

The Office of Chief Public Defender is opposed to passage of Raised Bill 429, An Act Concerning Public Safety. This proposal seeks to specifically criminalize activity colloquially described as the "Knockout Game", make this Class D felony automatically transferrable to the adult court for youth under the age of 16 and set a two year mandatory minimum prison term.

The activity proposed to be criminalized in this bill is already a crime. Assault in the Second Degree, Conn. Gen. Stat. 53a-60, already provides for a felony to be charged if the prosecutor believes that they have probable cause to believe that the accused intended serious physical injury. This proposal is unnecessary. Public safety is already adequately protected by current criminal laws. Assault in the Second Degree already carries a penalty of 5 years imprisonment. Proposing to make this Class D felony automatically transferred to the adult docket in unreasonably harsh and runs counter to every reform that has been accomplished in juvenile justice in Connecticut

This proposal would also make Assault in the Second Degree a crime that is automatically transferred to adult court under Conn. Gen. Stat. 46b-127(a). Assault in the Second Degree is a Class D felony. Current law provides for the mandatory transfer of only Class A and Class B felonies. Legislating mandatory transfer of a single class D felony, with no consideration of the youth or circumstances of the accused juvenile, runs counter to state and national correction trends and the law of the United States Supreme Court. The United States Supreme Court in Miller v Alabama, 567 U.S. \_\_\_, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012) ruled that sentencing courts must consider the



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age and maturity of young people who are under the age of 18 when the crime is committed. This legislature has consistently recognized that youth of an accused must be considered in determining how a juvenile is held accountable. In the past several years, legislation has been passed raising the age of juvenile jurisdiction to 18 and ensuring that hearings are held before a youth is transferred under the discretionary transfer statute.

Assault in the Second Degree is already a crime for which a child can be transferred to the adult docket under the discretionary transfer statute, 46b-127(b). Since this proposed offense would be based on the intent of the accused, it is much more appropriate to leave the decision to transfer to the prosecutor and the judge. The prosecutor can decide if the facts of each individual case warrant a motion to transfer. Conn. Gen. Stat. 46b-127(b) already requires that a judge consider the seriousness of the facts of a case, any prior record of the accused juvenile and any programs that are available to assist with rehabilitation in juvenile court. Judges also consider the accused's education and development ability, which is paramount in assessing intent.

A blanket rule that all such cases be transferred runs contrary to current knowledge that young people are more likely to rehabilitate and not reoffend when they are placed into developmentally appropriate rehabilitate services through the juvenile court system. The judge, who is familiar with the community and the programs available in juvenile court, is in the best position to determine if the case should be transferred. The recidivism rates in juvenile matters have been steadily dropping, while no such data exists for adult matters. Good public policy would allow discretion when determining whether to transfer these types of cases. It allows for juvenile court judges to decide when the circumstances of the case and the services available in juvenile court are more appropriate to ensure that the accused is held accountable and does not recidivate. The Office of the Chief Public Defender urges this committee to reject this proposal.